

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RICHARD J. JACOBS,)
)
 Plaintiff,)
)
 vs.) Case No. 06-1341-MLB
)
 MICHAEL J. ASTRUE,¹)
 Commissioner of)
 Social Security,)
)
 Defendant.)
 _____)

RECOMMENDATION AND REPORT

This is an action reviewing the final decision of the Commissioner of Social Security denying the plaintiff disability insurance benefits and supplemental security income payments. On May 21, 2007, plaintiff filed his brief (Doc. 7). On July 20, 2007, the defendant filed a motion to reverse and remand for further hearing (Doc. 10). On July 30, 2007, plaintiff filed their response to defendant's motion, indicating that they did not object to the motion to reverse and remand for further

¹On February 12, 2007, Michael J. Astrue was sworn in as the Commissioner of Social Security. In accordance with Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue is substituted for Commissioner Jo Anne B. Barnhart as the defendant. In accordance with the last sentence of 42 U.S.C. § 405(g), no further action is necessary.

hearing (Doc. 11).

Defendant requests that the decision of the Commissioner be reversed, and the case remanded for further hearing for the reasons set forth below:

The ALJ will be directed to properly evaluate Plaintiff's mental impairment pursuant to 20 C.F.R. § 404.1520a, including consideration of whether the impairment was of sufficient duration to constitute a severe impairment and the effect of Plaintiff's substance abuse upon his mental functioning. The missing portion of the transcript, which includes the testimony of the vocational expert, will also be added to the record.

(Doc. 10 at 1-2).

The court has reviewed the issues raised by plaintiff in his initial brief. Some, but not all of the issues raised by plaintiff in his brief are addressed in defendant's motion to remand. Plaintiff, in his response to defendant's motion, did not seek to expand the scope of the issues to be addressed when this case is remanded. Therefore, the court will recommend that this case be remanded in accordance with defendant's motion to remand.

IT IS THEREFORE RECOMMENDED that defendant's motion (Doc. 10) be granted, that the decision of the Commissioner be reversed, and that the case be remanded for further proceedings (sentence four remand) for the reasons set forth above.

Copies of this recommendation and report shall be provided to counsel of record for the parties. Pursuant to 28 U.S.C. §

636(b)(1), as set forth in Fed.R.Civ.P. 72(b) and D. Kan. Rule 72.1.4, the parties may serve and file written objections to the recommendation within 10 days after being served with a copy.

Dated at Wichita, Kansas, on September 21, 2007.

s/John Thomas Reid
JOHN THOMAS REID
United States Magistrate Judge